

REMARKS

Claims 2-4 and 6-11 were pending in this case. Upon entry of this Amendment, Claims 2-4 and 6-19 will remain pending in this case.

Applicants acknowledge with appreciation that the Examiner has broadened the restriction requirement, and has acknowledged that if Claims 2-3 and 6-10 would be allowable if drawn solely to the elected group.

Applicants believe however, that the Examiner meant Claims 2-4 and 6-11 would be allowable, based on paragraph (c) on page 4 of the Office Action, where it states that Group II, Claims 2-4 and 6-11 where Z is drawn to a five membered N containing heterocycle were examined in the case, and presumably were found to be allowable. This is also based on the Office Action summary page where Claims 2-4 and 6-11 only stand objected to, and not rejected.

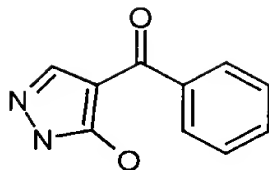
To be fully responsive to the Office Action, Applicants hereby elect Group II, Claims 2-4 and 6-11 drawn to compounds of Claim 2 wherein Z is a five membered N containing ring. Claims 2-4 and 6-11 have been so amended as to limit Z to the five membered ring.

Applicants have also adopted the Examiner's suggestions with regard to certain redundancies in the claim as set forth in Section IV on page 5 of the Office Action.

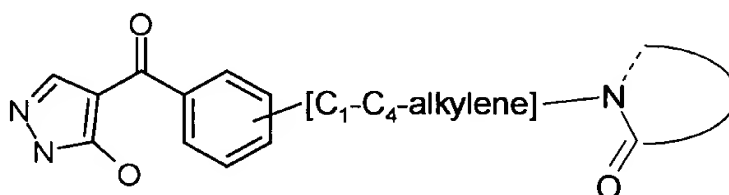
Having made the election and having so modified the claims, Applicants believe this Amendment is fully responsive to the Office Action and that Claims 2-4 and 6-11 are in condition for allowance. Review and reconsideration of the claims and allowance of Claims 2-4 and 6-11 is respectfully requested.

Applicants have also added new Claims 12-19 to claim the present invention in more varying scope, and to highlight a difference in the way the Examiner is viewing this case over the way Applicants are viewing the case. Applicants and the Examiner are seeing two different technical features for the present invention.

At page 3 in paragraph (ii), the Examiner states that the technical feature common to all the aforementioned groups therein, is a 4-carboxyphenyl-1,2-diazole moiety as shown below:



Applicants respectfully assert, on the other hand, that the special technical feature that provides unity for the present invention is the following moiety which **includes** the C₁-C₄-alkylene moiety, (where the 4, 5, or 6 membered nitrogen containing rings are represented by a simple curved line):

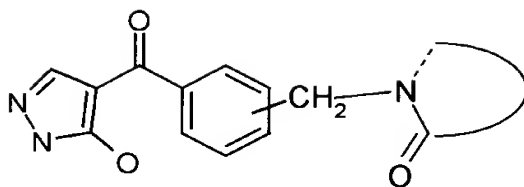


Applicants respectfully assert that the Examiner has not provided a reason as to why the Examiner's characterization of the special technical feature is more correct than that of the Applicants, and Applicants request that the Examiner elaborate on his position in any future Office Action.

If the Examiner were to accept Applicant's characterization, the special technical feature of the present invention would be the 4-carboxyphenyl-1,2-diazole-C₁-C₄-alkylene moiety. This is novel and an advancement over the art, and supports unity of invention, and thus also permits the 4, 5 and 6 membered N containing embodiments of the present invention to remain in this case.

Applicants have considered whether the Examiner's statement that the presence of a moiety that "would not vary from one group to another" meant that the Examiner found presence of the C₁-C₄-alkylene moiety to be an objectionable "variance". Therefore, Applicants have added new Claims 12-19, wherein the C₁-C₄-alkylene moiety is limited to methylene, in the hope that the Examiner would then permit the 4, 5 and 6 membered N containing groups to remain in this one application.

In short, the special technical feature contained in Claims 12-19 could be represented as:



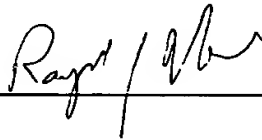
with the 4, 5 and 6 membered N containing rings containing the same special technical feature. In Claims 12-19 there is found a clearly defined "non-varying-moiety" for the special technical feature. This moiety was not known in the art prior to filing. This moiety also provides a technical contribution over the prior art (a spacer CH₂, a heterocycle bond via nitrogen and having a C=O-grouping; This aspect was already discussed during previous communication regarding novelty. Support for A = CH" is given on page 14, line 1 of the specification.

Applicants respectfully request and would appreciate the Examiner's permitting Claims 12-19 to remain in this case based upon the foregoing.

Applicants also wish to point out that a three page PTO Form 1449 was filed with this case when it was initially filed on September 26, 2001, but that Applicants have not received the PTO Form 1449 initialed by the Examiner as of yet. If the Examiner cannot find the PTO Form 1449 in his file, the undersigned requests that the Examiner telephone the undersigned, and the undersigned would be happy to fax the PTO 1449 form and/or otherwise provide the Examiner with whatever references the Examiner may be missing in his file, if any.

In light of the foregoing, reconsideration of the lack of unity objection, withdrawal of the same, and examination and allowance of all claims as amended by this Amendment in this one application is respectfully requested.

Respectfully submitted,

By  _____

Raymond J. Harmuth
Attorney for Applicants
Reg. No. 33,896

Bayer CropScience LP
100 Bayer Road
Pittsburgh, Pennsylvania 15205-9741
(412) 777-3916
FACSIMILE PHONE NUMBER:
(412) 777-3902

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